

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

v.

MYRON ELDON BUTLER (1)

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CRIMINAL NO. 4:16-CR-154-ALM-KPJ-1

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 26, 2021, to determine whether Defendant violated his supervised release. Defendant was represented by Michelle Allen-McCoy. The Government was represented by Wes Wynne.

On June 29, 2018, United States District Judge Amos L. Mazzant sentenced Defendant to a term of thirty-seven (37) months' imprisonment, three (3) years of supervised release, and a special assessment fee of \$100. On April 16, 2019, the United States Court of Appeals for the Fifth Circuit granted a joint motion to remand the case for re-sentencing so that special conditions could be read and explained to Defendant. The re-sentencing hearing was held on April 30, 2019.

On September 14, 2021, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 52). The Petition asserts Defendant violated the following conditions of supervision: (1) Defendant must not commit another federal, state, or local crime; (2) Defendant must answer truthfully the questions asked by his probation officer; (3) Defendant must not possess or consume alcoholic beverages; and (4) Defendant must participate in any combination of psychiatric, psychological, or mental health treatment programs, and follow the rules and regulations of that program, until discharged.

The Petition asserts that Defendant violated these conditions because: (1) on September 22, 2020, Denison Police Department arrested Defendant for Public Intoxication and Leaving the Scene of an Accident; on or about March 22, 2021 and March 29, 2021, Defendant committed the offense of Theft of Property Less than \$2,500 with Two or More Previous Convictions; on April 9, 2021, Denison Police Department arrested Defendant for Public Intoxication; on September 4, 2021, Defendant was arrested for Assault Causing Bodily Injury-Family Violence; (2) Defendant did not truthfully answer questions from his probation officer regarding whether he committed the theft offenses; (3) Defendant consumed alcohol, as evidenced by his arrests for Public Intoxication and a positive urine specimen on or about December 23, 2020; and (4) Defendant was unsuccessfully discharged from mental health treatment at Texoma Counseling Associates for failure to participate in the treatment program.

At the October 26, 2021 hearing, Defendant entered a plea of true to allegations 2, 3 and 4. *See* Dkt. 63. Defendant also consented to revocation of his supervised release and waived his right to appear before the District Judge. *See* Dkt. 64. After the Court accepted Defendant's plea of guilty as to allegations 2, 3 and 4 of the Petition, the Government moved to dismiss allegation 1, which the Court granted. The Court finds that Defendant has violated the terms of his supervised release, and thus, his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the October 26, 2021 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fourteen (14) months, to be served consecutively to any other sentence imposed, with no term of supervised release to follow.

Finally, the Court recommends Defendant be placed at a Federal Bureau of Prisons facility in Fort Worth, Texas, if appropriate.

So ORDERED and SIGNED this 28th day of October, 2021.

A handwritten signature in black ink, appearing to read 'KLPJ', is written above a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE